

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

CLERKS OFFICE U.S. DIST. COURT
AT ABINGDON, VA
FILED
2/10/2021
JULIA C. DUDLEY, CLERK
BY: LOTTIE LUNSFORD
DEPUTY CLERK

CHERYL DAVIS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. <u>1:21CV0009</u>
)	
)	
MICHAEL DEWILDE A/K/A MICHEAL DEWILDE,)	
)	
)	
BLAND COUNTY VOLUNTEER FIRE DEPARTMENT, INCORPORATED, and)	
)	
)	
COUNTY OF BLAND A/K/A BLAND COUNTY BOARD OF SUPERVISORS)	
)	
)	
Defendants.)	

COMPLAINT

COMES NOW the plaintiff, CHERYL DAVIS (“plaintiff”), by counsel, and moves this court for judgment against defendants MICHAEL DEWILDE also known as MICHEAL DEWILDE (“Dewilde), BLAND COUNTY VOLUNTEER FIRE DEPARTMENT, INCORPORATED (“fire department”) and COUNTY OF BLAND also known as BLAND COUNTY BOARD OF SUPERVISORS (“county”) (collectively “defendants”), jointly and severally, on the grounds and amounts as set forth herein:

1. The plaintiff in this action is a citizen of North Carolina.
2. All defendants are citizens, corporations or entities that are citizens of Virginia.

Specifically, Dewilde is a citizen of Virginia, the fire department is a corporation organized

under the laws of, and located exclusively in, Virginia, and the county is an instrumentality of Virginia.

3. This court has jurisdiction to hear this matter due to the diversity of citizenship between the parties, and that the amounts in controversy exceed \$75,000, pursuant to 28 USC §1332 (a) (1).

4. Venue is proper in the Western District Court for the Western District of Virginia, Abingdon Division, due to the fact that the incident that is the subject to this suit occurred in Bland County, Virginia.

5. On or about April 30, 2019, the plaintiff was operating a motor vehicle with reasonable care on Interstate 77 in Bland County, Virginia located in the left lane.

6. At the time and place aforesaid, a fire truck operated by Dewilde, while traveling in the right lane and while not using its emergency lights or siren, attempted to make a U-turn at an emergency vehicle crossover from the right lane, causing a collision with the plaintiff's vehicle in the left lane.

7. At the time and place aforesaid, Dewilde was employed by, volunteering for, and/or acting within the scope and course of employment and business benefit for, the fire department and/or the county, as shown by the fact that Dewilde was permitted to drive fire trucks with permission of the fire department and/or the county. The fire department and/or the county are thus vicariously liable for the negligent and grossly negligent conduct of Dewilde.

8. At the time and place aforesaid, the defendants had an actual and vicarious duty to use reasonable care in the operation of their motor vehicle.

9. Notwithstanding the aforesaid duty, the defendants operated their motor vehicle in a negligent manner and/or grossly negligent manner for the reasons alleged herein.

10. As a direct and proximate result of the defendants' negligence, the plaintiff was caused to suffer serious and likely permanent injuries; has suffered and will in the future continue to suffer inconvenience and pain of body and mind; has been and will in the future be deprived of earnings, has been prevented from transacting business and household duties, has incurred and will continue to incur medical and related expenses in an effort to be cured of said injuries, has incurred property damage, and has incurred and will continue to incur loss of income due to the inability to work.

11. The plaintiff was not contributorily negligent, did not assume the risk of injury, nor did the plaintiff fail to mitigate damages.

12. A trial by jury is demanded.

WHEREFORE the plaintiff moves for judgement against the defendants, jointly and severally, in the amount of three hundred thousand dollars in compensatory damages, prejudgment interest, post judgment interest, and costs expended.

Respectfully submitted,

CHERYL DAVIS

By: s/D. Adam McKelvey
of Counsel

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